

REMARKS/ARGUMENTS

Presently, claims 1-23 remain pending. In the Office Action dated 10/05/2006, claims 1, 5, 6, 9, 10, 12, 13, 15, 17, 19, 20, 21 and 23 were rejected under 35 U.S.C. 103(a) as being unpatentable over Gordon in view of Slik. In addition,

Claims 2-4 were rejected over Gordon in view of Slik, and further in view of Hall (U.S. Patent 6,138,119);

Claims 7 and 8 were rejected over Gordon in view of Slik, and further in view of Bergman (U.S. Patent 6,564,263);

Claim 11 was rejected over Gordon in view of Slik, and further in view of Grauch (U.S. Patent 6,983,478);

Claim 14 was rejected over Gordon in view of Slik, and further in view of Fujii (U.S. Patent 6,804,537);

Claim 16 was rejected over Gordon in view of Slik, and further in view of Lumelsky (U.S. Patent 6,463,454);

Claim 18 was rejected over Gordon in view of Slik, and further in view of Herz (U.S. Patent 6,029,195); and

Claim 22 was rejected over Gordon in view of Slik, and further in view of Xu (U.S. Patent 6,324,581).

General Discussion of Gordon

Prior to discussion of the specific claims, it is worthwhile to discuss Gordon, particularly with respect to “metadata.” Applicant submits that the metadata disclosed by Gordon is different than the “metadata” in the present invention.

First, the term metadata is commonly defined at a very high level as “data about data” (see, e.g., www.georgetown.edu/uis/ia/dw/GLOSSARY0816.html). However, in the context of

the present invention, the specification states more specifically that “metadata is the data that describes the attributes of the content” in an asset, where an asset is combination of metadata and content of a digital video program. “In addition, the metadata includes data identifying the type of asset it is associated with and specific characteristics of the asset, such as the asset’s structure. (Par. 29). The metadata is used in the headend of the cable system “to identify an appropriate application stored in the headend that understands the structure of the asset....” (Par. 30.) Specifically, the metadata is used by an Asset Management System (AMS) in the headend (par. 36) that contains an application program which “interpret[s] the metadata the AMS retrieved ...” (par. 37.) In summary, the meta-data is data processed by an application in a cable headend or the like, for purposes of knowing how to handle an asset.

In contrast, the metadata disclosed by Gordon is for a different purpose. While it does meet the generic definition of “data about data”, the metadata in Gordon is not information interpreted by an application in cable headend for processing an asset. Rather, metadata in Gordon appears to be a special form of a viewable data object. This conclusion is based on the specification of Gordon. Consider the following:

“Meta data is data associated with a single video data object. A network may transmit meta data to help a viewer determine whether to request the associated viewable data objects.” (Par. 28, lines 1-2, emphasis added.)

“The displayed data object 30 may also provide meta data, such as the price for viewing the data object 28 to a viewer 31 who subscribed to the interactive television service provided by the system 7.” (Par. 44, lines 4-8, emphasis added.)

“This data includes meta data on distributed viewable data object, for example, viewing prices, and upgrades to game software. The servers 43-49 incorporate this data in the data object and into the menu transmitted to the televisions 62-69 to announce available viewable data objects.” (Par. 52, lines 5-8, emphasis added.)

Consequently, Gordon defines meta data as data provided by a displayable data object, which results in information presented to a viewer. Because meta-data is part of “displayed data objects,” it is information provided to the viewer about another viewable data object (e.g., the price of a movie, or the availability of a game upgrade). The only disclosure found by the

applicant indicating how meta data is used in Gordon pertains to presentation of information to a viewer, not for processing by an application.

Applicant notes that the disclosure in Gordon pertain to programs “Y” and “Z” do not appear to have any relation to metadata as defined by Gordon. Specifically, when reading paragraph 62 in Gordon, the discussion of programs “Y” and “Z” do not reference meta data at all. This is consistent with the above identified disclosure of Gordon that only discusses meta data as viewable information for a user.

Gordon does disclose that the programs determine which data objects are stored based on “priorities and/or events.” However, Gordon does not treat priorities the same as metadata. Gordon defines several terms for use in the specification (par. 25) and lists a series of terms/concepts in paragraphs 26-35, wherein each paragraph discloses a distinct term/concept. Notably, “metadata” (par. 28) is in a distinct paragraph from “priorities” (par. 29). Thus, Gordon treats “metadata” as a separate concept from “priorities.”

Further, because “priorities” can be associated with a server or the entire system (see, e.g., par 64), it would be inconsistent to view “priorities” as meta data as defined by Gordon.

Thus, in summary, it appears that the meta data disclosed in Gordon is a type of viewable data object, and the purpose of it is to present information to a viewer. It is separate from “priorities” and the meta data does not contain machine readable information that is interpreted by an application.

DISCUSSION OF AMENDMENTS AND PATENTABILITY OF THE CLAIMS

1. Claims 1, 5, 6, 9, 10, 12, 13, 15, 17, 19, 20, 21, and 23

1.1 Claim 1

Applicant has amended claim 1 to remove an extraneous word and to better state the invention.

Applicant submits Gordon does not disclose certain limitations of claim 1 as alleged, including the following limitations:

at least one metadata object, wherein the at least one metadata object comprises an application identifier identifying an application associated with processing the asset;

at least one content object, wherein the at least one content object represents data to be stored based upon instructions originating from the application as a result of processing the at least one metadata object.

First, consider the limitation where the “metadata object comprises an application identifier.” The Office Action identifies paragraph 62, lines 1-8 and paragraph 29, lines 1-2 as disclosing this limitation. Applicant submits that this portion of Gordon does not disclose any “application identifier,” let alone a “metadata object comprising an application identifier.” First, paragraph 62, lines 1-8 states:

The programs designated "Y" and "Z" or hardware (not illustrated) control writes and stores of viewable data objects. The program "Y" controls viewer requested writes over the bus 93 of data objects stored in the storage device 90. The program "Z" determines whether a data object received from the storage server 44, over the line 51, should be stored to the device 90 or discarded.

While the text in Gordon discloses programs, which may be “applications”, there is no disclosure of an “application identifier” in the sentences cited in Gordon. Further, there is not any disclosure of “metadata,” much less that the “metadata object comprises an application identifier.” It simply is not disclosed.

The lines from paragraph 29, lines 1-2 states in Gordon states “[o]ne or more priorities are associated with each viewable data object and/or each local server.” Again, there is not any discussion of “application identifier” nor that the “metadata object comprises an application identifier.”

Thus, Applicant submits that claim 1 cannot be obvious in light of Gordon and Slik, when Gordon is relied upon for disclosing the limitation “metadata object comprises an

application identifier.” Gordon does not, in fact, disclose the limitation at all. Slik is not relied upon for disclosing this limitation.

Second, consider the limitation “based upon instructions originating from the application as a result of interpreting the at least one metadata object.” Applicant submits that this limitation is not disclosed by Gordon as alleged in the Office Action. While this limitation is amended to better state the invention, it is clear that paragraph 62, lines 5-8 of Gordon do not disclose the application processing the metadata. The cited text states:

The program "Z" determines whether a data object received from the storage server 44, over the line 51, should be stored to the device 90 or discarded. The determination is based on priorities and/or events.

This text from Gordon states a program determines whether to store a data object based on a priority and/or events. The text does not say the program processes metadata. Further, Gordon has defined “meta data” and “priorities” as distinct. There is no disclosure in Gordon stating that the application interprets or processes metadata in order to determine a priority or event for storing data. Simply stated, there is no disclosure in Gordon of the limitation “based upon instructions originating from the application as a result of interpreting the at least one metadata object.”

1.2 Independent claim 9

The comments provided above regarding claim 1 apply to claim 9. Claim 9 has been amended to better state the invention, by amending the limitation “identifies the server” to correct the antecedent basis, namely “identifies a ~~the~~ server.” In addition, claim 9 recites limitations that are not found in claim 1, such as “wherein the application identifies a server that receives at least a portion of the content from the staging server.”

The Office Action alleges that paragraph 62, lines 5-8 discloses the limitation “wherein the application identifies the server that receives at least a portion of the content from the staging

server.” (Office Action, page 4). Applicant submits that the cited text does not disclose an application identifying a server. The text merely states that the application “determines whether a data object received from the storage server 44 over the line 51, should be stored to the device 90 or disclosed. The determination is based on priorities and/or events” (Par. 62). There is no disclosure of how the server is selected. The application program in Gordon is running on one of the local servers 45-49. There is no disclosure in Gordon identified in the Office Action how the content got to the particular server. Further, the application program in Gordon determines whether the data is stored – not which server receives the portion of the contents.

It is apparent that claim 9, in addition for the reasons given for claim 1, is also patentable over Gordon for the above reason. Claim 9 is also patentable with respect to the combination of Gordon and Slik, since Slik is relied upon for disclosing a different limitation.

1.3 Independent claim 19

Independent claim 19 is patentable for the reasons provided for claim 1 and claim 9. Independent claim 19 is also amended to better state the invention, namely that it is the application that is instructing the content server. Claim 19 also recites “related data wherein the related data further comprises an application identifier.” The Office Action alleges this is disclosed by the following portion of Gordon:

One of more priorities are associated with each viewable data object and/or each local server. (Gordon, par. 29, lines 1-2.)

The above text recites “priorities”, not application identifiers. “Priorities” are used to establish a relative order of a set of objects, and do not identify the objects (e.g., the applications). For example, an input having a priority of “1” does not identify the application processing the input.

In addition, the Office Action alleges that the following limitations are disclosed by Gordon, paragraph 62, lines 5-8 which shows the amended text:

parsing the machine readable description to determine an application associated with the asset and identified by the related data;

examining the related data at the application to identify the content server that should receive at least a portion of the content; and

the application instructing the content server to retrieve the content from the staging server.

Applicant submits these limitations are disclosed in the cited portions of Gordon. The cited passages only state the program “Z” determines whether a data object received from the storage server should be stored, which is based on the priorities or events. There is no disclosure in Gordon of determining which application determines this, nor “the application instructing the content server to retrieve content from the staging server.”

Thus, Applicant submits that claim 19 is patentable over Gordon (as well as the combination of Gordon and Slik, since Slik is relied upon for the disclosure of other limitations).

Applicant’s remarks are largely focused on independent claims 1, 9, and 19, which are alleged to be anticipated by Gordon. In summary, Applicant respectfully submits that independent claims 1, 9, and 19 are patentable over the combination of Gordon, Slik, along with the other references cited. Applicant submits that the dependent claims are patentable, because they incorporate the limitations from the independent claim they depend from, and the independent claim recites limitations not rendered obvious by Gordon and Slik.

Applicant has not addressed whether the other requirements of a *prima facie case* of obviousness has been established with respect to the numerous combinations of the dependent claims that involve other references, since the independent claims are patentable over Gordon. Since the dependent claims incorporate the limitations of the independent claim from which they depend, and it is shown that Gordon does not anticipated the limitations in the independent claims,

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the various combinations of Gordon and the other references are insufficient to render the dependent claims obvious.

Applicant respectfully submits that the rejection be withdrawn, and that the claims are now in a position to be allowed.

SUMMARY/CONCLUSION

Applicant has amended the claims to reflect one embodiment of the invention, namely that the host protocol file comprises protocol information for deriving a host-specific protocol message that can be transmitted to the host for configuration or provisioning. In this manner, the cable network can accommodate a host requiring the use of a new protocol. Applicant respectfully submits that the above amendments recite limitations that are not disclosed or rendered obvious by the cited art of record. Applicant respectfully requests that the notice of rejection be withdrawn and that the claims be placed in a condition of allowance.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

/Karl H. Koster/

Karl Koster
Registration No. 50,684

Customer No. 00826

ALSTON & BIRD LLP

Bank of America Plaza

101 South Tryon Street, Suite 4000

Charlotte, NC 28280-4000

Tel Atlanta Office (404) 881-7000

Fax Atlanta Office (404) 881-7777

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